

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IGOR DAILEY,)	
)	Case No. 1:05-CV-01170
Petitioner,)	
)	
v.)	Judge Ann Aldrich
)	
CHRISTINE MONEY,)	Magistrate Judge Nancy A. Vecchiarelli
)	
Respondent.)	
)	<u>MEMORANDUM AND ORDER</u>
)	
)	

In October 2001, petitioner Igor Dailey (“Dailey”) was indicted by the Cuyahoga County Grand Jury on two counts of robbery in violation of OHIO REV. CODE § 2911.02. In March 2002, Dailey pled guilty to both charges and was sentenced to a term of three years for each count, to be served consecutively. Dailey did not appeal his conviction, but instead filed six separate post-conviction motions in Ohio state court. Respondent Warden Christine Money (the “State”) asserts that one motion remains pending, but the other five motions have been ruled upon. Three were denied by the state trial court, one of which Dailey appealed to the Ohio Court of Appeals, which appeal was denied. The Ohio Court of Appeals also denied a motion for delayed appeal and a notice of appeal concerning the motion pending in state trial court. Dailey did not appeal any of these unfavorable rulings to the Ohio Supreme Court.

In May 2005, Dailey filed the instant petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 [Docket No. 1]. The petition was referred to Magistrate Judge Vecchiarelli for a report and recommendation (“R&R”), which was filed on January 20, 2006 [Docket No. 13]. Magistrate Judge Vecchiarelli recommended that because Dailey’s petition contained only unexhausted claims for relief,

the State's request to hold Dailey's petition in abeyance should be denied and Dailey's petition should be dismissed. No objection to the R&R has been filed by either Dailey or the State, and both parties were informed of the consequences of failing to file objections. Therefore, the parties have waived further review of the R&R's findings of fact and conclusions of law by this court and the right to appeal this court's order to the Sixth Circuit. *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir.1995).

The court adopts the well-reasoned and thorough R&R [Docket No. 13] in its entirety and for the reasons stated therein denies the State's request to hold the petition in abeyance [Docket No. 11], and dismisses the petition for habeas corpus [Docket No. 1]. The case is dismissed.

This order is final but not appealable, as the parties have waived their right to appeal by failing to file objections. *Miller*, 50 F.3d at 380.

IT IS SO ORDERED.

/s/ Ann Aldrich
ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: May 2, 2006